

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

VIVIAN SMITH,)	
)	
Plaintiff,)	
)	No.: 1:19-cv-5535
v.)	
)	
DARLENE MOSES,)	JURY TRIAL DEMANDED
AMERICAN AIRLINES, INC., and)	
ENVOY AIR, INC.)	
Defendants.)	
)	

SECOND AMENDED COMPLAINT

NOW COMES the Plaintiff, VIVIAN SMITH, by and through her attorneys, SEIDMAN MARGULIS & FAIRMAN, LLP, and for her Second Amended Complaint against the Defendants, DARLENE MOSES, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., states the following:

COUNT I – Vivian Smith v. Darlene Moses, individually as agent of American Airlines, Inc. and Envoy Air, Inc.

1. Defendants AMERICAN AIRLINES, INC., and ENVOY AIR, INC. filed and served their first responsive pleading on August 23, 2019. (Doc. 10).
2. This amended pleading is filed within 21 days of service of the first responsive pleading of Defendants AMERICAN AIRLINES, INC., and ENVOY AIR, INC., and therefore is filed without leave of Court, as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1)(B).
3. This is the first amendment as a matter of course made pursuant to Fed. R. Civ. P. 15(a)(1)(B).
4. At all relevant times stated herein, the plaintiff, VIVIAN SMITH, was a resident of Cook County, Illinois.

5. At all relevant times stated herein, the defendant, DARLENE MOSES, was, upon information and belief, a resident of Cook County, Illinois.

6. At all relevant times stated herein, the defendant, AMERICAN AIRLINES, INC., was a Delaware corporation, which did and does business in Cook County, Illinois.

7. At all relevant times stated herein, the defendant, ENVOY AIR, INC., was a Delaware corporation, which did and does business in Cook County, Illinois.

8. At all relevant times stated herein, the defendant, DARLENE MOSES, was an employee and agent of Defendants, AMERICAN AIRLINES, INC., and ENVOY AIR, INC.

9. On or about September 17, 2017, Plaintiff, VIVIAN SMITH, was employed by Aries Shuttle Chicago, LLC, as a bus driver.

10. On or about 8:26 p.m. on September 17, 2017, Plaintiff, VIVIAN SMITH, was lawfully performing her work, operating a bus on the O'Hare Airport, 10000 W. O'Hare Avenue, Chicago, Cook County, Illinois, and further was operating the aforesaid bus on the airfield of the airport. At the aforementioned time and place, Plaintiff, VIVIAN SMITH, was slowed and/or stopped as an airplane passed.

11. At the aforementioned time and place, Defendant, DARLENE MOSES, individually and as agent of AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC., controlled and operated a motor vehicle traveling directly behind the bus operated by Plaintiff.

12. At the aforementioned time and place, DARLENE MOSES was operating the motor vehicle traveling directly behind the bus operated by Plaintiff was acting in the course and scope of her employment for Defendants AMERICAN AIRLINES, INC., and/or ENVOY AIR, INC.

13. At the aforementioned time and place, Defendant, DARLENE MOSES, individually and as agent of AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC., owed a duty to exercise reasonable care in the control and operation of the vehicle that she was operating, and specifically owed said duty to Plaintiff.

14. In violation of said duty, Defendant, DARLENE MOSES, individually and as agent of AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC., was guilty of one or more of the following negligent acts and omissions, in that she:

- a. Failed to keep a proper lookout for vehicles in her path of travel;
- b. Became distracted;
- c. Diverted attention from the road;
- d. Operated a motor vehicle too fast for conditions;
- e. Failed to reduce speed in order to avoid colliding with another vehicle;
- f. Failed to take reasonable evasive actions in order to avoid a collision; and
- g. Failed to sound the horn or otherwise warn Plaintiff of an impending collision.

15. As a direct and proximate result of one or more of the aforementioned negligent acts and omissions committed by the Defendant, DARLENE MOSES, individually and as agent of AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC., caused the vehicle that she was operating to collide with the vehicle that Plaintiff was operating.

16. As further and direct proximate result of the aforementioned collision, Plaintiff, VIVIAN SMITH, sustained serious, painful and permanent personal injuries, incurred medical expenses in relation to the same, lost income and/or wages, sustained a loss of a normal life and disfigurement, will continue to suffer said injuries, incur medical expenses, lose income and/or wages, and sustain a loss of a normal life and disfigurement in the future.

WHEREFORE Plaintiff, VIVIAN SMITH, requests that this Court enter judgment in his favor and against the Defendant, DARLENE MOSES, individually and as agent of AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC., in an amount in excess of \$50,000.00 plus costs of this suit and for any other relief this Court deems equitable and just.

COUNT II – Vivian Smith v. American Airlines, Inc. and Envoy Air, Inc.

1 – 10. Plaintiff repeats and re-alleges paragraphs one (1) through ten (10) of Count I as if fully set forth herein.

11. At the aforementioned time and place, Defendants, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., by and through their agent DARLENE MOSES, controlled and operated a motor vehicle traveling directly behind the bus operated by Plaintiff.

12. At the aforementioned time and place, DARLENE MOSES was operating the motor vehicle traveling directly behind the bus operated by Plaintiff was acting in the course and scope of her employment for Defendants AMERICAN AIRLINES, INC. and/or ENVOY AIR, INC.

13. At the aforementioned time and place, Defendants, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., by and through their agent DARLENE MOSES, owed a duty to exercise reasonable care in the control and operation of the vehicle that she was operating, and specifically owed said duty to Plaintiff.

14. In violation of said duty, Defendants, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., by and through their agent DARLENE MOSES, was guilty of one or more of the following negligent acts and omissions, in that they:

- a. Failed to keep a proper lookout for vehicles in their path of travel;
- b. Became distracted;
- c. Diverted attention from the road;

- d. Operated a motor vehicle too fast for conditions;
- e. Failed to reduce speed in order to avoid colliding with another vehicle;
- f. Failed to take reasonable evasive actions in order to avoid a collision; and
- g. Failed to sound the horn or otherwise warn Plaintiff of an impending collision.

15. As a direct and proximate result of one or more of the aforementioned negligent acts and omissions committed by the Defendants, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., by and through their agent DARLENE MOSES, caused the vehicle that they was operating to collide with the vehicle that Plaintiff was operating.

16. As further and direct proximate result of the aforementioned collision, Plaintiff, VIVIAN SMITH, sustained serious, painful and permanent personal injuries, incurred medical expenses in relation to the same, lost income and/or wages, sustained a loss of a normal life and disfigurement, will continue to suffer said injuries, incur medical expenses, lose income and/or wages, and sustain a loss of a normal life and disfigurement in the future.

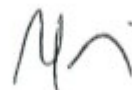
WHEREFORE Plaintiff, VIVIAN SMITH, requests that this Court enter judgment in his favor and against the Defendants, AMERICAN AIRLINES, INC. and ENVOY AIR, INC., by and through their agent DARLENE MOSES, in an amount in excess of \$50,000.00 plus costs of this suit and for any other relief this Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

SEIDMAN MARGULIS & FAIRMAN, LLP



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